

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**IN RE: LUMBER LIQUIDATORS CHINESE-)
MANUFACTURED FLOORING PRODUCTS)
MARKETING, SALES PRACTICES AND)
PRODUCTS LIABILITY LITIGATION)
_____)**

MDL No. 1:15-md-2627 (AJT/TRJ)

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MEMORANDUM OPINION AND ORDER

Defendant filed a motion (ECF no. 1236) for entry of a “Lone Pine” type case management order (see *Lore v. Lone Pine*, L-33606-85, 1986 WL 637507 (N.J. Super. Ct. Div. Nov. 18, 1986), and I heard it by telephone on December 28, 2017.

What constitutes a “Lone Pine” order is a matter of characterization. The issue before the Court is whether, in the circumstances of this MDL at this stage, as more personal injury claims are pled, Defendant and the Court need prompt discovery of the existence of medical support for the claims. I find that such need does exist, to the extent required by Section 6 of the First Supplemental Rule 16(b) Order entered today. To that extent Defendant’s motion is GRANTED IN PART and otherwise DENIED IN PART.

Plaintiffs’ counsel’s suggestion that the order calls for forensic and toxicology studies is mistaken. Nor does the order jump start a summary judgment process. The informal report from a treating physician or other expert required by Section 6 calls for little more than would be required by an early interrogatory. It is not too much to expect that a plaintiff filing a personal injury claim in this MDL will have consulted a health care provider and that the information called for will be available. Finally, counsel’s concerns about depositions have been dealt with by clarifying language in the order as entered.

Authority to require the report, and early, is clear under Rule 16(b)(3)(B)(ii) and Rule 16(c)(2)(F, L, and P); the need is clear; and the burden is justified.

Accordingly, it is so ORDERED.

January 3, 2018
Alexandria, Virginia

_____/s/_____
THOMAS RAWLES JONES, JR.
UNITED STATES MAGISTRATE JUDGE